

## **INITIAL STATEMENT OF REASONS:**

The California Department of Corrections and Rehabilitation (CDCR or the Department) proposes to adopt reserved Sections 3571 and 3582, and new Sections 3590, 3590.1, 3590.2, and 3590.3, concerning residence restrictions placed on sex offenders, high risk sex offenders, and transient sex offenders while on parole. These sections are to be adopted under Subchapter 6 of Title 15, Division 3 of the California Code of Regulations. Section 3571 is to be adopted under reserved Article 5; Section 3582 under reserved Article 6; and Sections 3590, 3590.1, 3590.2, and 3590.3 under new Article 6.5. Additionally, the Department proposes to amend Section 3000 under Chapter 1, Article 1.

These separate sections dealing with the three categories of sex offenders on parole are being adopted as a single rulemaking package because the subject matter of the sections is closely interrelated and because some provisions of the regulations make reference to, and are dependent upon, provisions within the other sections.

This action provides regulatory authority for CDCR's enforcement of PC section 3003.5, subdivision (b), which specifies that any person required to register as a sex offender pursuant to PC section 290 shall not reside within 2000 feet of any public or private school, or park where children regularly gather.

These proposed regulations will also provide regulatory authority for CDCR's enforcement of PC section 3003.5, subdivision (a), which prohibits sex offenders released on parole from living with other sex offenders in single family dwellings, with limited exceptions.

Proposed section 3582 will provide regulatory authority for CDCR's enforcement of PC section 3003, subdivision (g), which specifies residence restrictions on high risk sex offenders during the term of parole. This section will require a one-half mile residency restriction on any parolee who is designated by CDCR as a high risk sex offender and has a current or prior conviction of PC section 288, inclusive of any subsection, or PC section 288.5.

Proposed sections 3590 through 3590.3 establish provisions for the supervision of transient sex offenders while on parole. These sections establish processes for determining whether a parolee has a residence or is transient; specify approved locations that shall not be considered to establish a residence, such as places of employment; provide for restrictions regarding where transient parolees may stay; and establish provisions for the supervision of transient sex offender parolees.

Residency restrictions imposed upon paroled sex offenders have been the subject of extensive litigation. Sections 3590 through 3590.3 will bring the Department into compliance with a recent court decision (*In re Julie Briley, Jeffrey Glynn, William Taylor, Stephen Todd* (Super. Ct. San Diego County, Statement of Decision issued February 18, 2011, HC 19612, HC 19731, HC 19742, HC 19743)) requiring the Department to promulgate regulations establishing these provisions.

Additionally, these regulations specify that the CDCR Division of Adult Parole Operations (DAPO) shall monitor compliance with the statutory residence restrictions, establish a methodology to identify public and private schools and parks where children regularly gather to determine whether proposed housing is compliant, and report to the Board of Parole Hearings any parolee subject to these sections who is reasonably believed to have engaged in any behavior that violates the residence restrictions.

Section 3000, Definitions, is amended to add definitions for the terms "Single Family Dwelling," "Released on Parole," "Residential Facility," and "Transient Sex Offender," which are used in the new proposed sections.

Lastly, the Department recognizes that portions of the language utilized in these sections duplicate state statute, specifically in part, PC sections 3003 and 3003.5. This is necessary as the target population for the CCR Title 15, Division 3, includes incarcerated inmates and newly released parolees. This population does not have immediate access to current California Penal Code editions for review. By duplicating the statutory language, the Department can establish the foundation for the regulation to help ensure a complete understanding of the statutory authority. Because of this necessity, it is the Department's position that any duplication of state statute in these regulations is necessary in order to satisfy the clarity standard as provided in Government Section 11349(c).

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action, or would be as effective and less burdensome to affected private persons, than the action proposed.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the CDCR's initial determination.

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4 of the Government Code.

The Department has determined that no reasonable alternatives to the regulation have been identified or brought to the attention of the Department that would lessen any adverse impact on affected private persons or small business than the action planned.

The Department, in proposing the adoption of these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

## **SPECIFIC PURPOSE OF EACH SECTION PER GOVERNMENT CODE 11346.2(b)(1)**

### **Chapter 1. Rules and Regulations of Adult Operations and Parole**

#### **Article 1. Behavior**

##### **3000. Definitions.**

**Section 3000 is amended** to add and merge alphabetically definitions for the following terms:

“Released on Parole” is defined in this section. This is necessary because the term is used but not defined in Penal Code (PC) sections 3003 and 3003.5. The Department must interpret these statutes and make specific the meaning of the term. The definition encompasses the several different ways in which an offender could be released from custody to a term of parole. Included in this definition are “court walkovers;” offenders who are ordered directly to a term of parole by the sentencing court because they have already served a period of time in custody longer than the mandatory sentence.

“Residential Facility” is defined in this section. This is necessary because the term is used but not defined in PC section 3003.5(a). The Department must interpret the statute and make specific the meaning of the term. The Department has defined the term to include sober living facilities and transitional housing

facilities that provide services and training to residents. This definition is consistent with statute and encompasses the facilities that are normally used to assist parolees in their transition back into society.

“Single Family Dwelling” is defined in this section. This is necessary because the term is used but not defined in PC section 3003.5(a). The Department must interpret the statute and make specific the meaning of the term. Because certain parolees may not reside in single family dwellings with other parolees, it is necessary to provide a clear definition so that affected parolees may comply with their conditions of parole.

“Transient Sex Offender” is defined in this section. Due in part to statutory residence restrictions imposed upon sex offenders while on parole, many paroled sex offenders do not have residences and are considered transient. It is necessary to define this term in order to ensure that regulations regarding transient sex offenders are clear and able to be complied with both by affected parolees and CDCR enforcement staff.

## **Subchapter 6. Adult Parole**

**Reserved Article 5 is adopted.**

### **Article 5. Sex Offenders**

**Under Article 5, reserved Section 3571 title is adopted and amended for more specific meaning; and under Section 3571, new text is adopted.**

#### **3571. Sex Offender Residence Restrictions.**

**Section 3571 initial paragraph** establishes that sex offenders who are required to register pursuant to Penal Code (PC) section 290 are subject to residence restrictions as provided in this section. PC section 3003.5 places specific restrictions on the locations where registered sex offenders may reside.

**Subsections 3571(a)(1) through 3571(a)(5)** provide definitions of terms specific to this section. The terms “park,” “regularly,” “gather,” “park where children regularly gather,” and “public area” are defined. Defining these terms in this section is necessary because these words and phrases are in common usage but have specific meanings within this section. PC section 3003.5, uses these terms but does not provide definitions, therefore it is necessary for the Department to provide clear definitions both to persons subject to this section and CDCR enforcement staff.

**Subsection 3571(b)** establishes that any inmate released on parole, as defined in section 3000, who is required to register as a sex offender pursuant to PC section 290, is prohibited from residing in a single family dwelling with any other person also required to register pursuant to PC section 290, unless those persons are legally related by blood, marriage, or adoption. This provision is consistent with PC section 3003.5(a).

While the language in this regulatory section is duplicative of statute, the applicable statutory section is not readily available to the inmate or parolee population. Since the Title 15, Division 3 text is issued to every inmate, this language is placed in these regulations for ease of reference and to ensure availability to affected persons. As the statutory restriction is being imposed as a special condition of parole, it is important that the inmate/parolee is aware of the requirement.

**Subsection 3571(b)(1)** specifies that residential facilities, as defined in section 3000, which serve six or fewer persons are excluded from this provision, pursuant to PC section 3003.5(a).

**Subsection 3571(c)** establishes that any inmate released on parole on or after November 8, 2006 who is required to register pursuant to PC section 290, is prohibited from residing within 2000 feet of any public or private school, or park where children regularly gather, as these terms are defined in Subsections 3571(a)(1) through 3571(a)(5). While some of the language in this regulatory section is duplicative of statute, the applicable statutory section is not readily available to the inmate or parolee population. Since the Title 15 is issued to every inmate, this language is placed in these regulations for ease of reference and to ensure availability to affected persons. As the statutory restriction is being imposed as a special condition of parole, it is important that the inmate/parolee is aware of the requirement.

Consistent with case law, the Department will enforce the provision of PC 3003.5(b) only on offenders released on parole on or after November 8, 2006. PC section 3003.5, subdivision (b), was enacted as part of the Sexual Predator Punishment and Control Act, commonly referred to as Jessica's Law," on November 7, 2006, and became effective on November 8, 2006. The residency restrictions contained in PC 3003.5, subdivision (b) have "prospective effect," so do not "apply to persons convicted prior to the effective date of the statute and who were paroled, given probation, or released from incarceration prior to that date." *Doe v. Schwarzenegger* (2007) 476 F.Supp.2d. 1178. Similarly, the California Supreme Court ruled that the residency restriction imposed by PC section 3003.5, subdivision (b) was not ex post facto or retroactive. *In re E.J.* (2010) 47 Cal.4<sup>th</sup> 1258.

**Subsection 3571(d)** establishes that any person released on parole on or before November 7, 2006, who is required to register pursuant to PC section 290, shall not be subject to a residence restriction in addition to the restriction against living with another sex offender pursuant to section 3571(b), unless that restriction is reasonable based on circumstances found in the offender's criminal history. As established in the case of *People v. Lent* (1975) 15 Cal.3d 481 the Department has the right to impose reasonable conditions of parole upon parolees to ensure public safety.

**Subsection 3571(e)** establishes the processes necessary to verify that proposed residences are compliant with residence restrictions. New text specifies that DAPO shall monitor parolees' compliance with the residency restrictions of PC section 3003.5.

**Subsection 3571(e)(1)** establishes that parolees subject to the residence restrictions described in this section are responsible for finding compliant housing to reside in during the term of parole. This provision is necessary in order to make clear to affected parolees that the Department is not responsible for locating compliant housing on their behalf.

**Subsection 3571(e)(2)** establishes that the parolee shall meet with his or her parole agent upon release from custody, as that term is defined in section 3000, and provide the parole agent with the address where he or she intends to reside while on parole. This subsection also establishes that the parolee must meet with his or her parole agent before any change of address that the parolee intends to make to provide the parole agent with the proposed new address. This provision is necessary so that the parole agent can verify that the proposed address is compliant with residence restrictions before approving the parolee to take residence.

**Subsections 3571(e)(3) through 3571(e)(3)(E)** establish that the parole agent shall utilize available resources in order to identify public and private schools and parks within 2000 feet of the parolee's proposed residence. The resources that may be reviewed include, but are not limited to, the California Department of Education's website which lists public, private and charter schools; telephone directories

(e.g., white and yellow pages) that list public schools by district to include the city and/or county public school directories; listings provided by city governments that include local schools and parks; and resources available on the internet such as satellite maps (e.g., Google Earth), and observations from site visits or familiarity with the community.

These provisions are necessary because it is essential that Department staff are aware of information that could affect compliant residences such as the creation of new schools and parks, school closures, or any other relevant changes. This information is not always communicated to the Department by local and community resources. Therefore, the Department must make a reasonable effort to identify schools and parks via available public resources.

**Subsection 3571(e)(4)** specifies the method to determine whether a proposed residence is compliant with residence restrictions. When a school or park is identified within approximately 2000 feet of the parolee's proposed residence, the parole agent shall use a Global Positioning System device to determine whether any boundary of the school or park is within 2000 feet of the threshold of the primary entrance of the residence. This 2000 foot measurement shall be made as a direct point-to-point path (i.e., "as the crow flies") rather than as a driving or walking route.

This provision is necessary to establish on a statewide basis a precise and consistent standardized method for determining whether proposed housing is compliant.

**Subsection 3571(e)(5)** establishes that parolees shall be advised of whether their proposed residence location complies with the residence restrictions. In cases of noncompliant housing, the parolee shall, upon his or her request, be informed of the distance and name of the school or park that is within 2000 feet of the proposed residence. This provision is necessary to ensure that parolees are provided with a clear explanation for why their proposed residence is not compliant with the residence restrictions.

**Subsection 3571(f)** specifies that DAPO is to report to the Board of Parole Hearings (BPH) any parolee required to register pursuant to Penal Code section 290 who is reasonably believed to have engaged in any behavior that violates the residency restrictions set forth in this section. The BPH has the statutory authority to adjudicate violations of the terms and conditions of parole.

**Reserved Article 6 is adopted.**

## **Article 6. High Risk Sex Offenders**

**Under Article 6, reserved Section 3582 title is adopted and amended for more specific meaning; and under Section 3582, new text is adopted.**

### **3582. High Risk Sex Offender Residence Restrictions.**

**Section 3582 initial paragraph** specifies that sex offenders who are required to register pursuant to Penal Code (PC) section 290, and who have been designated as high risk sex offenders by the Department, are subject to residence restrictions as provided in this section. PC sections 3003.5 and 3003 subdivision (g) place specific restrictions on the locations where these offenders may reside.

**Section 3582(a)** defines, for clear and specific meaning, who shall be considered a high risk sex offender. Text defines a high risk sex offender as a sex offender who, pursuant to PC section 290.04, has been assessed and deemed by the Department to pose a high risk to commit a new sex offense. PC section

290.04 authorizes the Department to utilize a risk assessment tool to measure the offender's likelihood of reoffending. PC section 3003(g) uses the term high risk sex offender but does not provide a definition, therefore it is necessary for the Department to provide a precise definition.

**Subsection 3582(b)** establishes that any high risk sex offender released on parole who is required to register pursuant to PC section 290, is prohibited from residing in a single family dwelling with any other person also required to register as a sex offender, unless those persons are legally related by blood, marriage, or adoption. This provision is necessary in order to comply with PC section 3003.5(a).

While the language in this regulatory section is duplicative of statute, the applicable statutory section is not readily available to the inmate or parolee population. Since the Title 15, Division 3 text is issued to every inmate, this language is placed in these regulations for ease of reference and to ensure availability to affected persons. As the statutory restriction is being imposed as a special condition of parole, it is important that the inmate/parolee is aware of the requirement.

**Subsection 3582(b)(1)** specifies that residential facilities, as defined in section 3000, which serve six or fewer persons are excluded from this provision, pursuant to PC section 3003.5(a).

**Subsection 3582(c)** establishes that high risk sex offenders who are released on parole on or after November 8, 2006, who have current or prior convictions for violations of PC section 288, inclusive of any subsection, or PC section 288.5, may not reside within one half mile of any kindergarten through grade 12 school, or within 2000 feet of a park where children regularly gather, as described in section 3571(c). PC section 3003(g) explicitly prohibits sex offenders who have been designated high risk by the Department and who have convictions for violations of the above-mentioned penal codes from residing within a half-mile of any public or private school while on parole. These offenders are also subject to the 2000 foot restriction regarding parks, as described in section 3571(c) above.

PC section 3003(g) refers only to offenders released on parole for violations of PC section 288, inclusive of any subsection, or PC section 288.5. However, this proposed regulation extends the residence restrictions to parolees with prior convictions of these sections. This extension is justified as a reasonable means to effectively supervise sex offenders who are a high risk to commit another sex offense, in order to further the compelling interest of protecting children and the public from harm.

While the language in this regulatory section is duplicative of statute, the applicable statutory section is not readily available to the inmate or parolee population. Since the Title 15, Division 3 text is issued to every inmate, this language is placed in these regulations for ease of reference and to ensure availability to affected persons. As the statutory restriction is being imposed as a special condition of parole, it is important that the inmate/parolee is aware of the requirement.

**Subsection 3582(c)(1)** establishes that high risk sex offenders who are released on parole on or after November 8, 2006, who do not have convictions for violations of PC section 288, inclusive of any subsection, or PC section 288.5, are subject to the prohibition on living with another sex offender described in section 3582(b) above, and the 2000 foot residence restriction as described in subsection 3571(c) above. These offenders shall not be subject to additional residence restrictions unless that restriction is reasonable based on circumstances found in the offender's criminal history. As established in the case of *People v. Lent* (1975) 15 Cal.3d 481, the Department has the right to impose reasonable conditions of parole upon parolees to ensure public safety. This language is necessary to differentiate the restrictions from those imposed upon high risk sex offenders as described in 3582(c) above.

**Subsection 3582(d)** is adopted to specify the residence restrictions that apply to sex offenders released on parole on or before November 7, 2006, who are designated as high risk by the Department, and who have a conviction for a violation of PC section 288, inclusive of any subsection, or PC section 288.5. Pursuant to PC section 3003(g) these offenders shall not reside within one half mile of any public or private school, kindergarten through grade 12.

While the language in this regulatory section is duplicative of statute, the applicable statutory section is not readily available to the inmate or parolee population. Since the Title 15, Division 3 text is issued to every inmate, this language is placed in these regulations for ease of reference and to ensure availability to affected persons. As the statutory restriction is being imposed as a special condition of parole, it is important that the inmate/parolee is aware of the requirement.

**Subsection 3582(d)(1)** establishes that high risk sex offenders released on parole on or before November 7, 2006, who do not have current or prior convictions for PC section 288, inclusive of any subsection, or PC section 288.5, shall not be subject to a residence restriction in addition to the restriction against living with another sex offender pursuant to section 3571(b), unless that restriction is reasonable based on circumstances found in the offender's criminal history. As established in the case of *People v. Lent (1975) 15 Cal.3d 481* the Department has the right to impose reasonable conditions of parole upon parolees to ensure public safety.

**Subsection 3582(e)** establishes the processes necessary to verify that proposed residences are compliant with residence restrictions. New text specifies that DAPO shall monitor parolees' compliance with the residency restrictions of PC section 3003(g), in addition to those of PC section 3003.5, as described in section 3571(e).

The processes of verification and approval of a parolee's proposed residence contained in this subsection are similar to those contained in section 3571, subsections 3571(e) through 3571(e)(5), regarding non-high risk sex offenders. However, there are substantive differences (e.g., in the distances parolee's must reside from specific locations) that require the Department to make explicit the verification and approval processes regarding high risk sex offenders in these subsections.

**Subsection 3582(e)(1)** establishes that parolees subject to the residence restrictions described in this section are responsible for finding compliant housing to reside in during the term of parole. This provision is necessary in order to make clear to affected parolees that the Department is not responsible for locating compliant housing on their behalf.

**Subsection 3582(e)(2)** establishes that the parolee shall meet with his or her parole agent upon release from custody, as that term is defined in section 3000, and provide the parole agent with the address where he or she intends to reside while on parole. This subsection also establishes that the parolee must meet with his or her parole agent before any change of address that the parolee intends to make to provide the parole agent with the proposed new address. This provision is necessary so that the parole agent can verify that the proposed address is compliant with residence restrictions before approving the parolee to take residence.

**Subsections 3582(e)(3) through 3582(e)(3)(E)** establish that the parole agent shall utilize available resources in order to identify public and private schools within one-half mile, as well as parks where children regularly gather within 2000 feet as required by section 3571(e), of the parolee's proposed residence. The resources that may be reviewed include, but are not limited to, the California Department of Education's website which lists public, private and charter schools; telephone directories (e.g., white and yellow pages) that list public schools by district to include the city and/or county public school

directories; listings provided by city governments that include local schools; and resources available on the internet such as satellite maps (e.g., Google Earth), and observations from site visits or familiarity with the community.

These provisions are necessary because it is essential that Department staff are aware of information that could affect compliant residences such as the creation of new schools, school closures, or any other relevant changes. This information is not always communicated to the Department by local and community resources. Therefore, the Department must make a reasonable effort to identify schools via available public resources.

**Subsection 3582(e)(4)** specifies the method to determine whether a proposed residence is compliant with residence restrictions. When a school is identified within approximately one-half mile of the parolee's proposed residence, the parole agent shall use a Global Positioning System device to determine whether any boundary of the school is within one-half mile of the threshold of the primary entrance of the residence. These measurements shall be made as a direct point-to-point path (i.e., "as the crow flies") rather than as a driving or walking route.

This provision is necessary to establish on a statewide basis a precise and consistent standardized method for determining whether proposed housing is compliant.

**Subsection 3582(e)(5)** establishes that parolees shall be advised of whether their proposed residence location complies with residence restrictions. In cases of noncompliant housing, the parolee shall, upon his or her request, be informed of the distance and name of the school that is within one-half mile of the proposed residence. This provision is necessary to ensure that parolees are provided with a clear explanation for why their proposed residence is not compliant with the residence restrictions.

**Subsection 3582(f)** requires DAPO to report to the Board of Parole Hearings (BPH) any parolee required to register pursuant to Penal Code section 290 who is reasonably believed to have engaged in any behavior that violates the residency restrictions set forth in this section. The BPH has the statutory authority to adjudicate violations of the terms and conditions of parole.

**Under Subchapter 6, new Article 6.5 is adopted.**

## **Article 6.5. Transient Sex Offender Supervision**

**Under New Article 6.5, new Sections 3590, 3590.1, 3590.2, and 3590.3 are adopted.**

### **3590. Transient and Residence Determination.**

**Subsection 3590(a)** establishes in the regulations the provisions that are necessary in order to determine whether a paroled sex offender shall be considered "transient" or to have established a residence. This determination is critical as residence restrictions and requirements differ based on this distinction. PC section 290.011(g) defines "residence" as "one or more addresses at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles." This subsection specifies that one day or one night spent in any of these locations may be sufficient to establish residency if other circumstances are present, as described in the explanation of subsections 3590(a)(1)-(a)(4) below, and that the complete set of the parolee's living circumstances will be considered in making the determination whether the parolee has



established a residence. This language is also necessary in order to consider the complete set of circumstances because the definition of residence contained in statute does not specify what is meant by “regularly resides.” This language interprets this term and makes specific the criteria used to determine when a parolee shall be considered to regularly reside at a location.

**Subsections 3590(a)(1) through 3590(a)(4)** provide a listing of some of the circumstances that may, if present, be used in addition to the residency criterion in subsection 3590(a) to determine that a pattern of residency has been established by the parolee. Such circumstances include but are not limited to: the parolee residing one day or night at the same address every week, for multiple consecutive weeks; the parolee residing two or more consecutive days or nights at the same address, or two or more days or nights at the same address in a period that appears to establish a pattern of residency; the parolee being in possession of a key to an address where he or she is located and evidence exists of a pattern of residency; and evidence of the parolee establishing a residency upon being contacted by the parole agent, such as clothing in a closet, toiletries in a bathroom, or information supplied by other occupants or neighbors of the residence.

These examples of circumstances that may help to establish a pattern of residency are necessary because of the potential difficulty and complexity of making the determination of whether or not the parolee is transient. These circumstances are also consistent with a pattern of residency as described in PC section 209.011(g).

**Subsection 3590(b)** establishes that the parole agent responsible for making the determination of transient status shall use all available resources and information. It establishes the standard that if the complete set of circumstances indicates the parolee has established a residence, and a reasonable and prudent parole agent reviewing the same information would draw the same conclusion, then a residency shall be determined to have been established. Once a transient sex offender establishes a residence, he or she will no longer be recognized as transient.

It is necessary to establish this “reasonable and prudent” standard because of the potential complexity and difficulty of making the determination of whether or not the parolee is a transient. Some sex offender parolees who are subject to residence restrictions under sections 3571 and 3582 may attempt to circumvent these restrictions by claiming they are transient. This could endanger the public and make proper supervision of sex offender parolees unreasonably burdensome. Parole agents must be able to make an informed judgment based on all information available to them.

**Subsections 3590(b)(1) and 3590(b)(2)** establish that once a transient sex offender has established a residence, he or she will continue to have a requirement to register as a sex offender under PC section 290.010, and may be subject to the residence restrictions described in sections 3571 and/or 3582. Paroled sex offenders who have established residences are subject to various residence restrictions based upon their offenses committed, release date, and other criteria. This provision is necessary to make clear that a transient sex offender who has been determined to have established a residence is subject to all applicable residence restrictions.

### **3590.1. Approved Regular Entrance at an Address.**

**Subsection 3590.1(a)** establishes that transient sex offenders are allowed entry on a regular and repeated basis at specified locations, and such entries shall not be considered as establishing residency. This provision is necessary to allow the transient sex offender to conduct the routine, reasonable and necessary transactions of day-to-day living, without necessarily establishing a residence.

**Subsection 3590.1(a)(1)** allows transient sex offenders entry at an address for the purpose of charging the Global Positioning System (GPS) device paroled sex offenders are required to wear as described in section 3561. This is necessary to allow the parolee to comply with their conditions of parole.

**Subsection 3590.1(a)(2)** allows transient sex offenders entry at an address for the purpose of approved employment. A place of employment shall not be considered a residence unless the parolee resides there as described in section 3590.

**Subsections 3590.1(a)(3) and 3590.1(a)(4)** allow transient sex offenders entry at an address for the purpose of conducting legitimate business in a licensed business, professional, or government building, and for the purpose of obtaining care, treatment or other services provided by licensed providers. These provisions are necessary to allow the transient sex offender to conduct the routine, reasonable and necessary transactions of day-to-day living, without necessarily establishing a residence.

### **3590.2. Transient Sex Offender Location Restrictions.**

**Subsection 3590.2(a)** establishes that transient sex offenders who are staying at locations without street addresses, including but not limited to bridges, transient encampments and bus stops, which may be near schools and/or parks, are not subject to residence restrictions established in statute since those locations are not defined as residences, as described in section 3590. This provision is necessary to make clear that only the locations described in section 3590 shall be considered residences.

**Subsection 3590.2(b)** establishes that the locations described in section 3590.2(a) above may not be acceptable for the transient sex offender to frequent or reside at based upon his or her conditions of parole, criminal history, other statutes or regulations, and/or local ordinances. As established in the case of *People v. Lent (1975) 15 Cal.3d 481* the Department has the right to impose reasonable conditions of parole upon parolees to ensure public safety. Parolees may not violate local city or county ordinances, or other statutory or regulatory provisions, regardless of whether they are considered transient for the purposes of section 3590.

### **3590.3. Supervision of Transient Sex Offenders.**

**Subsection 3590.3(a)** establishes that transient sex offenders are subject to the parole supervision contact requirements described in section 3504. Section 3504 describes the various levels of parole supervision and the requirements for contact between the parole agent and the parolee for each supervision level. This provision is necessary to make clear both to affected parolees and parole agents that contact requirements for transient sex offenders remain in place despite their transient status.

**Subsection 3590.3(a)(1)** establishes the single exception for transient sex offenders to the parole supervision contact requirements described in section 3504. Instead of the face-to-face contact required in section 3504, the parole agent shall contact the parolee at the parolee's place of employment (if he or she is employed) or "in the field" (in the community in which the parolee resides), which may include a residence where the parolee appears to reside. This exception is necessary because transient sex offenders do not have residences in which to conduct the face-to-face contact described in section 3504. Additional text establishes that all contact between the parole agent and parolee shall be documented by the parole agent on a CDCR Form 1650-D (Rev. 07/10), Record of Supervision, which is incorporated by reference. Although reference to CDCR Form 1650-D has already been established in Title 15, Division 3 regulations, a copy has been made available for public review.

The CDCR Form 1650-D is a largely blank form in which the parole agent checks off the locations where the contact occurred (e.g., residence, field, by telephone, etc.) and records the date and time of the occurrence.

**Subsection 3590.3(a)(2)** requires transient sex offenders to disclose to the parole agent the locations where they have slept or intend to sleep. This provision is necessary to ensure that the parole agent is able to verify that the parolee is in compliance with his or her special conditions of parole. As described in section 3590.2 above, certain locations may not be acceptable for transient sex offenders to reside at or frequent based upon their criminal history, local community ordinances, and/or other statutes or regulations.

**Subsection 3590.3(b)** establishes that DAPO parole unit supervisors, when conducting case reviews, shall ensure that parole agents are meeting the supervision contact requirements described in section 3504. This provision is necessary to ensure public safety and compliance with governing statutes by verifying that the parolee is being supervised in accordance with existing regulations, as described in section 3504.